

SEP 28 2007

Remarks

Claims 1-28 are pending in the above-identified application. Claims 2, 14, 19, 21, 23, 25 are currently amended, claims 6-11, 15 and 18 were previously amended, claims 1, 3, 4, 5, 13, 16 and 17 are cancelled, claims 20, 22, 24 and 26 - 28 were previously presented, and claim 12 is original.

The Examiner rejected claims 27 and 28 under 35 U.S.C. 102(e) as being anticipated by Moran (U.S. Patent 6,757,149).

Claims 27 and 28 have been cancelled, and therefore the rejection of those claims is deemed moot.

The Examiner rejected claims 2, 4-12, 14 and 18-26 under 35 U.S.C. 103(a) as being anticipated by Moran (U.S. Patent 6,757,149) in view of Estelle et al (U.S. Patent 6,380,861).

MPEP §706.02(j) states:

"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaack, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

MPEP §2143.01 provides: The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 22 USPQ2d 929, 933 (Fed. Cir. 1984).

One court further noted that there were three possible sources for such motivation, namely "(1) the nature of the problem to be solved; (2) the teachings of the prior art; and (3) the knowledge of persons of ordinary skill in the art." Id. at 1357, 47 USPQ2d at 1458. Here, according to this court, the Board had relied simply upon "the high level of skill in the art to provide the necessary motivation," without explaining what specific understanding or technological principle within the knowledge of one of ordinary skill in the art would have suggested the combination.

Moran discloses a method of controlling a fuel injector valve solenoid includes generating a set-point signal which models a desired current profile flowing through the valve solenoid, providing a current controller which is adapted to regulate the current flowing through the valve solenoid, and regulating the current flowing through the valve solenoid such that the current flowing through the valve solenoid closely matches the set point signal. Regulating the current includes measuring the current flowing through the valve solenoid, comparing the current

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flowing through the valve solenoid to the current profile of the set-point signal, and adjusting the current flowing through the valve solenoid to more closely match the current profile of the set-point signal.

Estelle et al. discloses a temperature monitor for monitoring a temperature of an electrically operated fluid dispenser having a coil mounted adjacent an armature within the dispenser. The coil selectively generates an electromagnetic field to move the armature between opened and closed positions. The temperature monitor includes current measuring apparatus for measuring a current in the coil and a comparator for comparing a measured current value to a desired current value. An indicator provides an indication representing a relationship between the measured current value and the desired current value. The temperature monitor also has different indicators for providing different indications representing different values of the measured current relative to a desired current value.

In paragraph 36 of the present application it states: "Phase t3 is an electrically idle interval. Phase t3 exists to conserve energy, as well as to allow magnetic forces to dissipate prior to a following reverse condition." The independent claims have been amended to include this feature of the present invention.

Estelle in the passage cited by the Examiner relied on FIG 2a and the notation of "Toff" as an interval between pulses. However, Estelle does not provide any teaching this "Toff" exists to conserve energy, as well as to allow magnetic forces to dissipate prior to a following reverse condition. In fact there is no discussion of "Toff". Thus one skilled in the art would not look to Estelle to fill the deficiencies of Moran. Therefore, with the amendment of the independent claims the rejection of the claims under 35 U.S.C. 103(a) has been overcome, and the Examiner is respectfully requested to reconsider the rejection of the claims.

The dependent claims include all the limitations of the respective independent claims upon which they depend and therefore are also allowable over the cited prior art.

Applicants have discussed herein one or more differences between the cited prior art, and the claimed invention with reference to one or more parts of the cited prior art. This discussion, however, is in no way meant to acquiesce in any characterization that one or more parts of the cited prior art correspond to the claimed invention.

Reconsideration and withdrawal of the rejections is therefore respectfully requested. In view of the above remarks, allowance of all claims pending is respectfully requested.

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Any prior art made of record and not relied upon is considered to be of general interest only. This application is believed to be in condition for allowance, and such action at an early date is earnestly solicited. If a telephone conference would be of assistance in advancing the prosecution of this application, the Examiner is invited to call applicant's attorney.

Respectfully submitted,



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